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Order 2000-7-3

Served: July 10, 2000



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 6th day of July, 2000

Application of

**SEABORNE AVIATION, INC.  
D/B/A SEABORNE SEAPLANE ADVENTURES**

Docket OST-00-7542 - 2

for disclaimer of jurisdiction or approval of transfer of  
certificate under section 41105 of the Statute

**ORDER DISCLAIMING JURISDICTION  
AND REISSUING CERTIFICATE**

**Summary**

By this order, we disclaim jurisdiction over the proposed transfer to Seaborne Virgin Islands, Inc. d/b/a Seaborne Airlines of the section 41102 certificate of Seaborne Aviation, Inc. d/b/a Seaborne Seaplane Adventures, and we reissue the certificate in the name of Seaborne Virgin Islands, Inc. d/b/a Seaborne Airlines.

**Request for Disclaimer**

Seaborne Aviation, an Alaska corporation, holds a section 41102 certificate authorizing interstate scheduled air transportation of persons, property and mail as reissued by Order 98-7-6.<sup>1</sup> The company, an operating scheduled air carrier that conducted operations both in Alaska and the U.S. Virgin Islands, recently ceased its Alaska operations when it decided to concentrate primarily on its U.S. Virgin Islands markets.

On June 19, 2000, Seaborne Aviation filed an application in Docket OST-00-7542 in accordance with section 41105 of the Statute requesting the Department to disclaim jurisdiction over the transfer of Seaborne's certificate to a newly formed entity, Seaborne Virgin Islands, Inc. d/b/a Seaborne Airlines.

<sup>1</sup> Seaborne's certificate was first issued by Order 96-3-1.

The applicant states that the requested transfer is merely the result of a corporate restructuring designed to take advantage of a more favorable tax situation in the U.S. Virgin Islands and to conform the airline's legal residence to its principal place of business. The restructuring will involve no material change in the ownership, business, management, assets, liabilities or net worth of Seaborne Aviation. The newly formed company will continue to be owned, 50 percent each, by Messrs. Charles F. Slagle and Kenneth A. Dole, who will continue to serve as Chairman and Chief Financial Officer, respectively.

Seaborne contends that disclaiming jurisdiction over the requested transfer is consistent with prior actions by the Department and the Civil Aeronautic Board before it,<sup>2</sup> and that such transfers are routine in nature and, therefore, are not matters mandated by Congress to review.

### Decision

We have decided to disclaim jurisdiction over the transfer of Seaborne Aviation's certificate to Seaborne Virgin Islands and to reissue Seaborne Aviation's certificate in the name of Seaborne Virgin Islands, Inc. d/b/a Seaborne Airlines. Based on information filed by the carrier, we find that it continues to be a U.S. citizen, is managerially and financially fit, and has a satisfactory compliance disposition. We also find that the proposed transfer will have no effect on the actual ownership, control, management, citizenship, financial condition, or operations of the carrier. In similar circumstances in the past, the Department and its predecessor, the Civil Aeronautics Board, have disclaimed jurisdiction over this type of transaction based on the conclusion that the circumstances of the proposed transfer did not fall within the meaning of section 41105 of the Statute.

On June 30, we orally advised Seaborne Aviation of our decision, which we will confirm here.

**ACCORDINGLY**, acting under authority assigned by the Department in its Regulations, 14 CFR 385.12:

1. We confirm our oral action of June 30, 2000, and disclaim jurisdiction over the transfer of the section 41102 certificate issued by Order 98-7-6 from Seaborne Aviation, Inc. d/b/a Seaborne Seaplane Adventures to Seaborne Virgin Islands, Inc. d/b/a Seaborne Airlines.
2. We reissue the transferred section 41102 in the form and subject to the terms, conditions and limitations attached.
3. We will serve a copy of this order on the persons listed in Attachment A.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.31, may file their petitions within 10 days of the service date of this order.

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<sup>2</sup> See e.g., Application of NewAir Flight, Inc., Order 81-8-71; and Application of Midwest Express Airlines, Inc., Order 96-4-18.

The action reflected in this order was effective when taken and the filing of a petition for review shall not alter its effectiveness.

By:

**RANDALL D. BENNETT**  
Acting Director  
Office of Aviation Analysis

(SEAL)



# Certificate of Public Convenience and Necessity for Interstate Scheduled Air Transportation

*(as reissued)*

**SEABORNE VIRGIN ISLANDS, INC.  
D/B/A SEABORNE AIRLINES**

*is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in interstate scheduled air transportation of persons, property, and mail.*

*This Certificate is not transferable without the approval of the Department of Transportation.*

*By Direction of the Secretary*

*Issued by Order 2000-7-3  
On July 6, 2000  
Effective June 30, 2000*

*Randall D. Bennett  
Acting Director  
Office of Aviation Analysis*



*Attachment*  
*\*Reissued by*  
**Order 2000-7-3**

*Terms, Conditions, and Limitations*

**SEABORNE VIRGIN ISLANDS, INC.  
D/B/A SEABORNE AIRLINES**

*is authorized to engage in interstate air transportation of persons, property, and mail between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.*

*This authority is subject to the following provisions:*

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by the certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (2) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration.*
- (3) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102 (a)(15).*
- (4) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*
- (5) The holder may reduce or terminate service at any point or between any two points subject to compliance with the provisions of 49 U.S.C. 41734 and all orders and regulations issued by the Department of Transportation under that section.*

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*\*This certificate is being reissued to reflect the transfer of the authority contained herein from Seaborne Aviation Inc. d/b/a Seaborne Seaplane Adventures to Seaborne Virgin Islands, Inc. d/b/a Seaborne Airlines.*

(6) The holder's may not provide scheduled passenger air transportation to or from Dallas (Love Field) Texas, except within the limits set forth in section 29 of the International Air Transportation Competition Act of 1979.

(7) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(8) In the event that the holder commences but subsequently ceases all operations for which it was found "fit, willing and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may not recommence operations nor advertise such operations until its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

(9) The operations authorized by this certificate are restricted to operations performed with aircraft having a maximum capacity of 60 passenger seats or less. In the event the holder wishes to institute operations with aircraft having a larger capacity, it must first be determined fit for such operations.

**SERVICE LIST FOR SEABORNE VIRGIN ISLANDS, INC.  
D/B/A SEABORNE AIRLINES**

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